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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.            | CONFIRMATION NO.       |
|--|-------------|-----------------------|--------------------------------|------------------------|
| 10/526,320   | 02/25/2005  | Beverly Cusick Taylor | PGW-100A                       | 3559                   |
| 28304  | 7590        | 01/06/2010            |                                |                        |
| JEAN M. MACHELEDT<br>501 SKYSAIL LANE<br>SUITE B100<br>FORT COLLINS, CO 80525-3133 |             |                       | EXAMINER<br>NGUYEN, CAMTU TRAN |                        |
|  |             |                       | ART UNIT<br>3772               | PAPER NUMBER           |
|  |             |                       | MAIL DATE<br>01/06/2010        | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/526,320

**Applicant(s)**

TAYLOR, BEVERLY CUSICK

**Examiner**

Camtu T. Nguyen

**Art Unit**

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 15-19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1, 10, 12, 13 and 21 is/are rejected.
- 7) ☒ Claim(s) 2-3, 5-9, 11, 14, 20 and 22-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is responding to applicant's amendment filed on 9/10/09. Claims 1-2, 4-9, and 12-13 have been amended. Claims 20-28 are newly added.

Applicant remarks against the Winthrop et al and the Peters, Sr. et al reference applied in the previous Office Action are persuasive and thus, the rejections associated with these references are withdrawn.

The claims, as amended, have been carefully considered but deemed not allowable in view of the following rejection(s).

### ***Claim Objections***

Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, the limitations in claim 11 does not further limiting all of the objectives in claim 10, therefore, the limitations in claim 11 are incomplete.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10, 12, 13, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Clement (U.S. Patent No. 5,403,268).

Clement discloses a first garment (3) and a second garment (5) for donning at different areas of the body, the outwardly surface of each of the garments (3, 5) comprising an area (11, 15, for accepting releasable fasteners, the inwardly surface of each of the garments (3, 5) resist slippage when donning the garments (3, 5), a plurality of straps (7, 9) each of which comprising at least one of the areas of releasable fasteners (7a, 7b, 9a, 9b) for application of the straps (7, 9) onto the outwardly surface of any of the garment (3, 5), wherein the straps (7, 9) interconnects the garments (3, 5) in an operative therapeutic configuration as shown in Figures 1-5.

Regarding claim 10, the operative therapeutic configuration addresses improve movement control of the body (column 2 lines 4-9).

Regarding claim 13, Figures 1-5 illustrates the first garment (3) is an upper torso garment and the second garment (5) is a shoulder wrap garment.

Regarding claims 21, Figures 1-5 illustrates the first garment (3) of upper torso is donned around the user's upper torso by pulling the garment (3) over and around the upper torso, the second garment (5) is donned by wrapping the garment (5) around the user's arm.

***Allowable Subject Matter***

Claims 2-3, 5-9, 14, 20, 22-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 4 is allowed.

The following is an examiner's statement of reasons for allowance: the art of record when considered alone or in combination neither renders obvious a therapeutic garment system comprising elasticized wrap-around upper torso & lower torso garments, each of which comprising an outwardly surface to which accepts releasable fasteners, a plurality of elasticized pieces releasably applied to the outwardly surface of the garments, the upper torso garment comprising front & back panels releasably secured to a shoulder area of the panels and at each of a right and left side of the panels.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,403,268 (Clement) discloses a therapeutic garment system comprising an upper torso garment (3) comprising a front & back panel but the panels are not releasably secured at a shoulder area of the panels & at each of a right & left of the panels.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Camtu T. Nguyen/  
Examiner, Art Unit 3772

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772